

1 **TAXES AND RELATED SCHOOL FUNDING PROVISIONS**2 **AMENDMENTS**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael E. Noel**

6 Senate Sponsor: _____

7
8 **LONG TITLE**9 **General Description:**

10 This bill makes changes to taxes and school funding.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ increases the state sales and use tax rate on food and food ingredients to the general
14 state sales and use tax rate;15 ▶ adds food and food ingredients to the tax base for certain local option sales and use
16 taxes;17 ▶ creates a School Equalization ~~H→~~ [Fund] Account ~~←H~~ and provides for operation of
17a the ~~H→~~ [fund] account ~~←H~~ ;18 ▶ deposits revenues from the state sales and use tax increases into the School
19 Equalization ~~H→~~ [Fund] Account ~~←H~~ ;20 ▶ provides a methodology for allocations from the School Equalization ~~H→~~ [Fund]
20a Account ~~←H~~ ;21 ▶ reduces school district certified property tax rates by the amount of allocations from
22 the School Equalization ~~H→~~ [Fund] Account ~~←H~~ ;23 ▶ prohibits all taxing entities from imposing a property tax rate higher than the
24 certified tax rate for a certain period of time;

25 ▶ makes adjustments to property tax fee-in-lieu allocations;

26 ▶ adjusts the methodology for funding charter schools and the school board and voted
27 leeway guarantee programs;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.

(b) "District per pupil local revenues" means the amount determined as follows, using data from the most recently published school district annual financial reports and state superintendent's annual report:

(i) calculate the sum of a school district's revenue received from:

(A) a voted levy imposed under Section 53A-17a-133;

(B) a board levy imposed under Section 53A-17a-134;

(C) 10% of the cost of the basic program levy imposed under Section 53A-17a-145;

(D) a tort liability levy imposed under Section 63G-7-704;

(E) a capital outlay levy imposed under Section 53A-16-107; ~~and~~

(F) a voted capital outlay levy imposed under Section 53A-16-110; and

(G) the School Equalization ~~H~~→ ~~Fund~~ Account ←~~H~~, in accordance with Section 53A-21-603, except for

allocations used to abate property taxes imposed for bond payments in accordance with Section 53A-21-602; and

(ii) divide the sum calculated under Subsection (1)(b)(i) by the sum of:

(A) a school district's average daily membership; and

(B) the average daily membership of a school district's resident students who attend charter schools.

(c) "Resident student" means a student who is considered a resident of the school district under ~~[Title 53A,]~~ Chapter 2, Part 2, District of Residency.

(d) "Statewide average debt service ~~[revenues]~~ expenditures" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the ~~[revenues]~~ expenditures of each school district for general obligation bonded indebtedness from the debt service levy imposed under Section 11-14-310 and allocations from the School Equalization ~~H~~→ ~~Fund~~ Account ←~~H~~ created in Section 53A-21-603; and

(ii) divide the sum calculated under Subsection (1)(d)(i) by statewide school district average daily membership.

(2) "Base tax effort rate" means the average of:

(a) the highest combined capital levy rate; and

(b) the average combined capital levy rate for the school districts statewide.

(3) "Combined capital levy rate" means a rate that includes the sum of the following property tax levies:

(a) the capital outlay levy authorized in Section 53A-16-107;

(b) the portion of the 10% of basic levy described in Section 53A-17a-145 that is budgeted for debt service or capital outlay;

(c) the debt service levy authorized in Section 11-14-310; and

(d) the voted capital outlay leeway authorized in Section 53A-16-110.

(4) "Derived net taxable value" means the quotient of:

(a) the total property tax collections from April 1 through the following March 31 for a school district for the calendar year preceding the March 31 date; divided by

(b) the school district's total tax rate for the calendar year preceding the March 31 referenced in Subsection (4)(a).

(5) "Highest combined capital levy rate" means the highest combined capital levy rate imposed by a school district within the state for a fiscal year.

(6) "Property tax base per ADM" means the quotient of:

(a) a school district's derived net taxable value; divided by

(b) the school district's ADM.

(7) "Property tax yield per ADM" means:

(a) the product of:

(i) a school district's derived net taxable value; and

(ii) the base tax effort rate; divided by

(b) the school district's ADM.

(8) "School Equalization ~~Ĥ~~→ [Fund] Account ←Ĥ " or " ~~Ĥ~~→ [fund] account ←Ĥ " means the ~~Ĥ~~→ [fund] account ←Ĥ created in Section 53A-21-602.

[~~(8)~~] (9) "Statewide average property tax base per ADM" means the quotient of:

(a) the sum of all school districts' derived net taxable value; divided by

(b) the sum of all school districts' ADM.

Section 8. Section **53A-21-601** is enacted to read:

Part 6. School Equalization

53A-21-601. Definitions.

As used in this part:

(1) "Enrollment" means enrollment in a school district or charter school as of the October 1 enrollment counts.

(2) "Three-year average enrollment growth" means an amount calculated by:

(a) subtracting the enrollment in the year that is three years prior to the current year from the enrollment in the current year; and

(b) dividing the number resulting from the subtraction under Subsection (2)(a) by three.

Section 9. Section **53A-21-602** is enacted to read:

53A-21-602. School Equalization $\hat{H} \rightarrow$ [Fund] Account $\leftarrow \hat{H}$ -- Sources of revenue -- Interest.

(1) There is created a $\hat{H} \rightarrow$ [special revenue fund] restricted account $\leftarrow \hat{H}$ within the Education Fund known as the

"School Equalization $\hat{H} \rightarrow$ [Fund] Account $\leftarrow \hat{H}$."

(2) (a) The $\hat{H} \rightarrow$ [fund] account $\leftarrow \hat{H}$ shall be funded by:

(i) sales and use tax revenues deposited in accordance with Section 59-12-103; and

(ii) legislative appropriations.

(b) Any interest earned on the $\hat{H} \rightarrow$ [fund] account $\leftarrow \hat{H}$ shall be deposited into the $\hat{H} \rightarrow$ [fund] account $\leftarrow \hat{H}$.

(3) The State Board of Education shall distribute revenues deposited into the $\hat{H} \rightarrow$ [fund] account $\leftarrow \hat{H}$ in accordance with Section 53A-21-603.

(4) A school district or charter school that receives an allocation from the School Equalization $\hat{H} \rightarrow$ [Fund] Account $\leftarrow \hat{H}$:

(a) shall first use funds to reduce and replace property taxes imposed for capital outlay in accordance with Section 53A-16-107; and

(b) if property taxes imposed for capital outlay are fully reduced in accordance with Subsection (4)(a), shall first use the funds in place of property tax levies imposed under Sections 11-14-310, 53A-16-110, 53A-17a-133, 53A-17a-134, 53A-17a-145, and 63G-7-704, and then may use the funds for any capital outlay or general fund purpose.

Section 10. Section **53A-21-603** is enacted to read:

53A-21-603. School Equalization Program -- Allocations.

(1) There is created the "School Equalization Program," as described in this section.

(2) For fiscal years beginning on or after July 1, 2012, the State Board of Education shall annually allocate School Equalization Program funds in accordance with Subsection (3).

(3) Except as provided in Subsection (4), the State Board of Education shall annually:

(a) determine the amount of funds available in the School Equalization ~~Fund~~ → [Fund]

Account ← F for allocation;

(b) distribute 75% of the available funds to school districts in proportion to each school district's percentage of statewide enrollment in the current year; and

(c) distribute 25% of the available funds to school districts in proportion to each school district's percentage of the combined total of three-year average enrollment growth in all school districts with an increase in three-year average enrollment growth.

(4) (a) In making allocations under Subsection (3), the State Board of Education shall allocate funds in fiscal year 2012-13 only to the extent that the related certified tax rate reduction under Section 59-2-924.5 does not reduce a school district's certified tax rate below the minimum basic tax rate imposed under Section 53A-17a-135.

(b) The State Board of Education shall allocate any funds that are not allocated due to Subsection (4)(a) to other school districts in accordance with the allocation methodology under Subsection (3).

(5) By April 1, 2012, the State Board of Education shall notify the Tax Commission and each school district of projected allocations under this section for fiscal year 2012-13.

(6) If a new school district is created or school district boundaries are adjusted, the enrollment and three-year average enrollment growth shall be calculated on the basis of enrollment in school district schools located within that school district's newly created or adjusted boundaries.

Section 11. Section **59-1-401** is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

3270 ~~food ingredients described in Subsection (2)(e).]~~

3271 (b) [(i)] Notwithstanding Subsection (3)(a), ~~[except as provided in Subsection~~
 3272 ~~(11)(b)(i),]~~ and in addition to any amounts deposited under Subsections (7), (9), and (10),
 3273 when the general obligation bonds authorized by Section 63B-16-101 have been paid off and
 3274 the highway projects completed that are included in the prioritized project list under Subsection
 3275 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance
 3276 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
 3277 amount of tax revenue generated by a .025% tax rate on the transactions described in
 3278 Subsection (1).

3279 ~~[(ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit~~
 3280 ~~into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or~~
 3281 ~~charged for food and food ingredients, except for tax revenue generated by a bundled~~
 3282 ~~transaction attributable to food and food ingredients and tangible personal property other than~~
 3283 ~~food and food ingredients described in Subsection (2)(e).]~~

3284 (12) [(a)] Notwithstanding Subsection (3)(a), ~~[and except as provided in Subsection~~
 3285 ~~(12)(b),]~~ beginning on January 1, 2009, the Division of Finance shall deposit into the
 3286 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
 3287 .025% tax rate on the transactions described in Subsection (1) to be expended to address
 3288 chokepoints in construction management.

3289 ~~[(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into~~
 3290 ~~the Transportation Fund any tax revenue generated by amounts paid or charged for food and~~
 3291 ~~food ingredients, except for tax revenue generated by a bundled transaction attributable to food~~
 3292 ~~and food ingredients and tangible personal property other than food and food ingredients~~
 3293 ~~described in Subsection (2)(e).]~~

3294 (13) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
 3295 Finance shall deposit into the School Equalization ~~Fund~~ **Fund** Account ~~Account~~ created in
 3295a Section 53A-21-602 7.5%
 3296 of the revenues collected from the state sales and use taxes imposed under Subsections
 3297 (2)(a)(i)(A) and (2)(b)(i).

3298 Section 21. Section **59-12-104.2** is amended to read:

3299 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
 3300 **Nation.**

4293 food ingredients are sold as part of a bundled transaction attributable to food and food
 4294 ingredients and tangible personal property other than food and food ingredients.]

4295 Section 34. **Effective dates.**

4296 (1) The amendments to the following sections take effect on January 1, 2012:

4297 (a) Section 59-2-404;

4298 (b) Section 59-2-405;

4299 (c) Section 59-2-405.1;

4300 (d) Section 59-2-405.2;

4301 (e) Section 59-2-405.3;

4302 (f) Section 59-2-919.3; and

4303 (g) Section 59-2-924.5.

4304 (2) The following sections take effect on January 1, 2012:

4305 (a) Section 53A-21-601;

4306 (b) Section 53A-21-602; and

4307 (c) Section 53A-21-603.

4308 (3) The amendments to the following sections take effect on July 1, 2012:

4309 (a) Section 10-1-405;

4310 (b) Section 11-41-102;

4310a **H→ (c) Section 26-36a-206;**

4311 ~~[(c)]~~ **(d) ←H** Section 53A-1a-513;

4312 **H→** ~~[(d)]~~ **(e) ←H** Section 53A-17a-133;

4313 **H→** ~~[(e)]~~ **(f) ←H** Section 53A-17a-134;

4314 **H→** ~~[(f)]~~ **(g) ←H** Section 53A-21-101.5;

4315 **H→** ~~[(g)]~~ **(h) ←H** Section 59-1-401;

4316 **H→** ~~[(h)]~~ **(i) ←H** Section 59-12-102;

4317 **H→** ~~[(i)]~~ **(j) ←H** Section 59-12-103;

4318 **H→** ~~[(j)]~~ **(k) ←H** Section 59-12-104.2;

4319 **H→** ~~[(k)]~~ **(l) ←H** Section 59-12-108;

4320 **H→** ~~[(l)]~~ **(m) ←H** Section 59-12-401;

4321 **H→** ~~[(m)]~~ **(n) ←H** Section 59-12-402;

4322 **H→** ~~[(n)]~~ **(o) ←H** Section 59-12-703;

4323 **H→** ~~[(o)]~~ **(p) ←H** Section 59-12-802;

4324 ~~H~~→ [~~(p)~~] (q) ←~~H~~ Section 59-12-804;
4325 ~~H~~→ [~~(q)~~] (r) ←~~H~~ Section 59-12-1201;
4326 ~~H~~→ [~~(r)~~] (s) ←~~H~~ Section 59-12-1302;
4327 ~~H~~→ [~~(s)~~] (t) ←~~H~~ Section 59-12-1402;
4328 ~~H~~→ [~~(t)~~] (u) ←~~H~~ Section 59-12-2003;
4329 ~~H~~→ [~~(u)~~] (v) ←~~H~~ Section 59-12-2103; and
4330 ~~H~~→ [~~(v)~~] (w) ←~~H~~ Section 59-12-2204.

Legislative Review Note
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